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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/164,293	10/01/98	GREENSPAN	D 028870-131

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EXAMINER
SEAMAN, D

ART UNIT	PAPER NUMBER
1625	17

DATE MAILED: 07/18/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/164,293

Applicant(s)

GREENSPAN ET AL.

Examiner

D. Margaret Seaman

Art Unit

1625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- 1) ☒ Responsive to communication(s) filed on 5 May 2000, paper #16.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12, 13 and 18-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12, 13 and 18-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some * c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) _____.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 20) ☐ Other: _____

DETAILED ACTION

1. This application was filed 1 October 1998 and is a CON of 08/715,911, filed 19 September 1996, US Patent #5,834,008. Claims 12-13 and 18-26 are before the Examiner.

Election/Restrictions

2. The restriction stated in paper #15, dated 24 April 2000, has been withdrawn. Claims 12-13 and 18-26 are to be examined.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 12-13 and 18-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meiss (US Patent #5,000,746) in view of Low (US Patent #4,851,046) and Stoor (see PTO 892).

Meiss teaches a wound covering for burns extensive skin wounds, skin lesions or the like having a plurality of individual elements connected by a webbing material or fabric, a layer of ceramic or glass (bioactive glass)(see abstract). This composition may

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also contain antibiotics, antibacterials, antivirals or antimycotic substances (see column 3 lines 22-23). Meiss does not specifically teach that the bioactive glass releases Na, Ca or P into the wound or burn.

Stoor teaches that bioactive glasses act as vehicles for Na, Ca, PO₄ and Si into an area that has contact with the bioactive glass. Low also teaches that Na, Ca and P also migrate to the adjacent area from the bioactive glass.


It would have been obvious to one of ordinary skill in the art to use the webbing material/fabric containing bioactive glass and antibiotics to treat wounds. Rationale: Meiss teaches the bandage material, bioactive glass, and antibiotic but does not specifically teach the bioactive glass releases Na, Ca or P into the wound. Stoor and Low each teach that such releases from bioactive glass are known to the ordinary artisan. It would have been obvious to one of ordinary skill in the art to use a multi chambered syringe to deliver the wound treatment. Meiss teaches the mixing of the bioactive glass and antibiotic for wound treatment. Low teaches topical treatment of such mixtures for periodontal uses. Methods of multichamberd syringes for mixing two different substances are a matter of routine in the art.

5. The rejection of claims 22-23 under 35 U.S.C. 103(a) as being unpatentable over Meiss in view of Low, Coleman, Wood and Loeffler, as stated in paper #11, dated 1 October 1999, is upheld.

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Applicant argues that Loeffler teaches an in situ kit for such a mixture of ingredients and is therefore not applicable to the instant invention. However, Loeffler teaches the use of bioactive glass plus other ingredients to treat wounds. The only difference is the final use. The rejection is over the apparatus. Loeffler teaches the multichambered apparatus that has means for the active ingredients to be rapidly mixed. Meiss teaches the use of such bioactive glass and antibiotic for topical treatment of wounds. Low teaches a similar mixture for the topical treatment of periodontal defect repair. All of these references teach the use of a mixture of bioactive glass and other active ingredients to treat wounds. The use of the apparatus of Loeffler to mix the two or more active ingredients is within the skill of the ordinary artisan.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. Margaret Seaman whose telephone number is 703-308-4528. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.


D. Margaret Seaman
Primary Examiner
Art Unit 1625

dms
July 17, 2000